IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE**

**And**
**THE HON'BLE MR JUSTICE G.CHANDRAIAH**

**WRIT APPEAL NO : 1051 of 2005**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/04/2005 in WP NO : 19774 OF 2004 on the file of the High Court.)

Between:

A. Sumalatha Muthyam Reddy, W/o. A. Muthyam Reddy,
Adilabad District, R/o. Presently staying at Plot No.19,
H.No.2-3-70/5/4, New Samathapuri Colony, Road No.2, Nagole, Hyderabad.

**..... APPELLANT**

AND

1 The Revenue Divisional Officer, Nirmal, Adilabad District.
2 Zilla Parishad, Adilabad, rep. by its Chief Executive Officer.
3 The Mandal Development Officer, Laxmanchanda, Adilabad District.
4 Tunki Rajeswar, MPTC, Babapur.
5 N. Kalpana Ram Reddy,MPTC, Wadiyal, Adilabad District.
6 Guripelly Chinnamma, MPTC, New Velmal, Adilabad District.
7 Poshetty, MPTC, Laxmanchanda, Adilabad District.
8 Lingavva, MPTC, Mallapur, Adilabad District.
9 Manthena Anasuya, MPTC, Parpelly, Adilabad District.
10 Sonna Muthanna, MPTC, Rachapur, Adilabad District.

**.....RESPONDENTS**

**Counsel for the Appellant : MR.B.VIJAYSEN REDDY**

**Counsel for the Respondents No. 1 to 3 : GP FOR PANCHAYAT RAJ & RURAL DEV.**

**Counsel for the Respondents No.4 to 8 & 10: SMT.G.JYOTHI KIRAN**

**Counsel for the Respondent No.9 : MR.S.NIRANJAN REDDY**

The Court made the following :

**JUDGMENT** : (Per Hon'ble Sri Bilal Nazki, ACJ)

Notice issued on 12.10.2004 by 1st respondent intending to hold a meeting for 'no-confidence' on 30.10.2004 was challenged by way of a writ petition. The writ petition had been dismissed. Hence the appeal.

The writ petitioner was elected President, Lakshmanachanda Mandal Praja Parishad. According to her, she had gone for medical treatment to Hyderabad. She had given an advance intimation about her absence, to the Chief Executive Officer of the 2nd respondent Zilla Parishad. The copies had been sent to the Chairman of the Zilla Parishad and the Mandal Parishad Development Officer, Lakshmanachanda the 3rd respondent, vide her letter dated 08.10.2004. She stated that taking advantage of her absence, respondent No.4, in collusion with other members of the Mandal Parishad, hatched a plan to oust her from the post of President and issued a notice dated 12.10.2004 proposing to hold a meeting of 'no-confidence'. The petitioner claims that no notice of meeting was served on her though she had furnished her Hyderabad address to the respondents.

1st respondent filed counter. He stated that after receiving the notice of 'no-confidence motion', he fixed the date for the meeting as contemplated by Rule 3 of The Andhra Pradesh Panchayat Raj Rules (hereinafter referred to as 'the Panchayat Raj Rules') after completing the formalities. Said notice was served on all MPTCs. Petitioner was not available at her residence. Her house was found locked and notice to her was pasted on a conspicuous place of her residence. Petitioner had failed to furnish her address at Hyderabad

and so petitioner was not entitled to any relief.

3rd respondent had also filed a counter affidavit contending that though the petitioner had intimated through her letter dated 08.10.2004 that she would be absent for 15 days due to ill-health, she had failed to mention her temporary address in that letter and since notice was fixed at her house, she had the knowledge of the meeting.

The petitioner filed her reply admitting that she mentioned the address of her stay at Hyderabad only in her letter addressed to the Chief Executive Officer of 2nd respondent Zilla Parishad and that she did not mention her address in the letter addressed to the 3rd respondent. In these circumstances, her main grievance is that though she had given her temporary address to the Chief Executive Officer of the 2nd respondent Zilla Parishad, notice of 'no-confidence motion' was not sent to her temporary address.

The only question which merits an answer is whether a notice had to be given to her temporary address, which she had communicated to the Chief Executive Officer of the Zilla Parishad. Rule 3 of the Panchayat Raj Rules lays down;

> *"3. The concerned officer specified in Rule 2 (here-in-after in this rule referred to as said officer) shall then convene and preside over a meeting for the consideration of the motion at the office of a Gram Panchayat, or at the Mandal Parishad or at the Zilla Parishad, as the case may be, on a date appointed by him which shall not be later than thirty days from the date on which the notice under Ruel 2 was delivered to him. He shall give to every member of Gram Panchayat, Mandal Parishad or Zilla Parishad, as the case may be, the notice of not less than fifteen clear days excluding the date of the notice and the date of the proposed meeting of such meeting in Form IV, or in Form V or in Form VI annexed to these rules either in English or in Telugu or in Urdu language, whichever is applicable. Every such notice shall be delivered as specified below, namely :---*
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> a. *by giving or tendering such notice to such member, or*
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> b. *if such member is not found, by leaving such notice at his last known place of residence or business or by giving or*

*tendering the same to some adult member or servant of his family ; or*

c. *if such member does not reside in the Gram Panchayat area or Mandal Parishad area, or within the District and if his address is known to the District Panchayat Officer/Chief Executive Authority/Collector or the Sarpanch of the Gram Panchayat to be elsewhere, by sending the same to him through registered post with Acknowledgement due; or*

d. *if none of the means aforesaid is available or if the persons referred to in clauses (a) and (b) refuse to receive the notice, by affixing the same at some conspicuous part of his place of residence or business :*

*Provided that where the holding of such meeting is stayed by an order of a court, it shall be adjourned, and the said officer shall hold the adjourned meeting on a date not later than thirty days from the date on which he received the intimation about the vacation of stay and after giving to the members, a notice of not less than fifteen clear days excluding the date of the notice and the date of the proposed meeting of such adjourned meeting."*

This is in conformity with Section 245 of The Andhra Pradesh Panchayat Raj Act.

We have seen the record of the case. As soon as the notice was moved prior to the date of convening of the meeting, the writ petition was filed on 27.10.2004, in which, notice dated 12.10.2004 was challenged. Meeting was to be convened on 30.10.2004. A copy of the notice was available to the petitioner, who annexed it with the writ petition. The copy of notice under Rule 3 of the Panchayat Raj Rules is not to enable a person to put forth his defence. It is only to apprise him of the date on which the meeting would be convened. Much before the date of meeting, the petitioner was in possession of a copy of the notice and was also aware of the date on which the meeting would be convened. The petitioner did not attend the meeting and we are told at Bar that the 'no-confidence motion' was carried and a new Mandal Praja Parishad President has already been elected.

For these reasons, the appeal is dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

15-06-2005

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(G.CHANDRAIAH, J)

ajr

.....REGISTRAR

To

1 The Revenue Divisional Officer, Nirmal, Adilabad District.
2 The Chief Executive Officer, Zilla Parishad, Adilabad.
3 The Mandal Development Officer, Laxmanchanda, Adilabad District.
4 Tunki Rajeswar, MPTC, Babapur, Adilabad District.
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8 Lingavva, MPTC, Mallapur, Adilabad District..
9 Manthena Anasuy, MPTC, Parpelly, Adilabad District.
10 Sonna Muthanna, MPTC, Rachapur, Adilabad District.
11 Two C.Cs. to the GP for Panchayat Raj & Rural Development, High Court

Premises, Hyderabad (OUT)

12. 2 CD copies

*Form-NIC-OGS/WA* ***{****JGK****}***

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